

3 FAM 4550 PERFORMANCE BASED REDUCTION IN GRADE AND REMOVAL

(TL:PER-410; 08-02-2001)

3 FAM 4551 LEGAL AND REGULATORY AUTHORITY

(TL:PER-410; 08-02-2001)

(State Only)

(Applies to Civil Service Employees)

The following authorities are cited:

- (1) Subchapter I of chapter 43, title 5 U.S.C.;
- (2) 5 U.S.C. 7501; and
- (3) 5 CFR, Part 432.

3 FAM 4552 ACTIONS NOT COVERED

(TL:PER-410; 08-02-2001)

(State Only)

(Applies to Civil Service Employees)

3 FAM 4550 does not apply to actions cited in 5 CFR 432.102(b).

3 FAM 4553 EMPLOYEE COVERAGE

3 FAM 4553.1 Employees Covered

(TL:PER-410; 08-02-2001)

(State Only)

(Applies to Civil Service Employees)

3 FAM 4550 applies to employees cited in 5 CFR, Part 432.102(e).

3 FAM 4553.2 Employees Not Covered

(TL:PER-410; 08-02-2001)
(State Only)
(Applies to Civil Service Employees)

3 FAM 4550 does not apply to employees cited in 5 CFR 432.102(f).

3 FAM 4554 AUTHORITY TO PROPOSE AND DECIDE ACTIONS

3 FAM 4554.1 General Authority

(TL:PER-410; 08-02-2001)
(State Only)
(Applies to Civil Service Employees)

Action	Official
<i>Propose a reduction in grade or removal under 3 FAM 4550</i>	<i>Director, Office of Employee Relations (HR/ER)</i>
<i>Decide a reduction in grade or removal under 3 FAM 4550</i>	<i>Deputy Assistant Secretary for Human Resources</i>

3 FAM 4554.2 Delegation of Authority

(TL:PER-410; 08-02-2001)
(State Only)
(Applies to Civil Service Employees)

Upon request from the executive director or equivalent officer of a bureau, the Director General of the Foreign Service and Director of Human Resources may delegate the authority to propose *and decide* reduction in grade or removal based solely on unacceptable performance. *The authority to propose performance-based action for employees is delegated to an appropriate official, and the authority to decide adverse actions may be delegated to a higher level official, but no lower grade than an executive director.* The proposing and deciding official may not be the same person.

3 FAM 4554.3 Advisory Capacity

(TL:PER-410; 08-02-2001)

(State Only)

(Applies to Civil Service Employees)

When the authority to propose and decide the actions covered by 3 FAM 4550 has been delegated by the Director General of the Foreign Service and Director of Human Resources to the bureau level, HR/ER, in consultation with the Office of the Assistant Legal Adviser for Employment Law (*L/EMP*) will assist and advise the bureaus and offices on adverse action procedures to insure consistency in application and the meeting of regulatory and legal requirements. The concurrence of HR/ER is required on all proposal and decision letters issued to employees under this subchapter.

3 FAM 4555 PROCEDURES

(TL:PER-410-; 08-02-2001)

(State Only)

(Applies to Civil Service Employees)

a. An employee against whom a performance based reduction in grade or removal action is proposed under 3 FAM 4550 is entitled to the procedures set forth in 5 U.S.C. 4305 and 5 CFR 432.104-107.

b. An employee's attorney or other representative must be designated in writing to the deciding official.

c. The Department will allow an employee a reasonable time, normally 10 days, to answer a notice of proposed reduction in grade or removal under 3 FAM 4550.

d. The deciding official shall give the employee a reasonable opportunity to make any presentations, which are relevant to the final decision on the case. However, this does not include the right to discovery or a formal hearing with examination of witnesses.

e. A decision to reduce in grade or remove an employee for unacceptable performance may be based only on those instances of unacceptable performance that occurred during the one year period ending on the date of issuance of the advance notice of proposed action under 5 CFR 432.105(a)(4)(i).

f. The deciding official shall specify the instances of unacceptable performance by the employee on which the action is based and shall inform the employee of any applicable appeal or grievance rights.

g. The notice of decision shall be delivered to the employee at or before the time the action will be effective.

3 FAM 4556 THROUGH 4559 UNASSIGNED